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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/517,613	03/02/2000	Thiru Srinivasan	1642(42059-01010)	4139
25231	7590	06/18/2004	EXAMINER	
MARSH, FISCHMANN & BREYFOGLE LLP 3151 SOUTH VAUGHN WAY SUITE 411 AURORA, CO 80014			ENGLAND, DAVID E	
			ART UNIT	PAPER NUMBER
			2143	13
DATE MAILED: 06/18/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/517,613

Applicant(s)

SRINIVASAN, THIRU

Examiner

David E. England

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 March 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1 – 19 are presented for examination.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the predetermined criteria must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 16 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The limitation of, “automatically resolved”, does not specifically appear in the specification.

4. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The limitation of, “predetermined criteria”, is not specifically disclosed in the specification to render one of ordinary skill in the art as to what encompasses a “predetermined criteria”.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

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regards as the invention. The limitation of, “automatically resolved”, does not teach one of ordinary skill in the art as to how or what automatically resolves scheduling conflicts.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1 – 11, 13 – 15, 17 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Leeke et al. U.S. Patent No. 6587127 (hereinafter Leeke).

9. Referencing claim 1, Leeke teaches a system for automatically retrieving and playing multimedia files, comprising:

10. an interface through which access to a data network may be attained, (e.g. col. 4, lines 8 – 30);

11. a scheduler which is configurable to receive a listing of multimedia files organized according to a predetermined criteria which are accessible on at least one multimedia website, (e.g. col. 19, line 66 – col. 20, line 42);

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12. a selection interface which provides for presentation of the listing, and is configured to receive and process selections for accessing selected multimedia files from the at least one multimedia website and compiling a download schedule, (e.g. col. 15, line 39 – col. 16, line 24); and

13. a file download device, which based on the download schedule, automatically accesses the remote sites through the interface and downloads the selected multimedia file, (e.g. col. 16, line 34 – col. 17, line 15).

14. Referencing claim 2, Leeke teaches a centralized website employable for generating the listing based on connections established with the at least one multimedia website and providing the listing to the scheduler, (e.g. col. 4, line 50 – col. 5, line 6).

15. Referencing claim 3, Leeke teaches the data network is the Internet, (e.g. cols. 4, lines 8 – 30).

16. Referencing claim 4, Leeke teaches the interface, scheduler, selection interface, and download device are configured on a personal computer, (e.g. col. 5, lines 1 – 48, “*smart card*”).

17. Referencing claim 5, Leeke teaches at least one of: the scheduler, the selection interface, and the file download device are configured as plugins in a web browser installed in the personal computer, (e.g. col. 5, lines 1 – 48).

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18. Referencing claim 6, Leeke teaches the selection interface includes at least one of:
a first selection for real time play of the multimedia files which are downloaded; and

19. a second selection for storing in a memory the multimedia files which are
downloaded in memory, (e.g. col. 5, lines 1 – 48, “*streaming*”).

20. Referencing claim 7, Leeke teaches an interface is provided for selecting
categories from which the listing is created, (e.g. col. 19, line 66 – col. 20, line 42).

21. Referencing claim 8, Leeke teaches a memory to which the multimedia files may
be downloaded, (e.g. col. 48, lines 38 – 54).

22. Referencing claim 9, Leeke teaches the system includes a media player for
playing the multimedia files in real time, (e.g. col. 5, lines 1 – 48, “*streaming*”).

23. Referencing claim 10, Leeke teaches a method of retrieving multimedia files over
a data network from a remote site in connection with the data network, comprising the
steps of:

24. receiving a listing for the multimedia files for accessing multimedia files on at
least one multimedia website, (e.g. col. 19, line 66 – col. 20, line 42);

25. presenting an interactive interface which includes the listing and through which
individual selections may be made for downloading the multimedia files from the at least
one multimedia website, (e.g. col. 15, line 39 – col. 16, line 24);

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26. receiving an input through the interface selecting a particular number of the multimedia files from the listing, (e.g. col. 15, line 39 – col. 16, line 24);
27. compiling a download schedule based on the received inputs, wherein the schedule includes a description of the multimedia file selected, day and time for the download, and download information, (e.g. col. 19, line 66 – col. 20, line 42 & col. 14, lines 52 – 63 & col. 15, lines 18 – 50); and
28. based on the inputs received through the interface, accessing and downloading over the data network, the selected multimedia files from selected remote sites, (e.g. cols. 4, lines 8 – 30 & col. 16, line 34 – col. 17, line 15).
29. Referencing claim 11, Leeke teaches at least one of the following additional steps:
30. storing the multimedia files in memory; and
31. playing the selected multimedia files, (e.g. col. 5, lines 1 – 48, “streaming”).
32. Referencing claim 13, Leeke teaches the multimedia files are retrieved according to a time schedule, (e.g. col. 14, line 52 – col. 15, line 37).
33. Referencing claim 15, Leeke teaches the multimedia files include at least one of:
34. a video file;
35. an audio file, (e.g. col. 5, lines 33 – 48).

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36. Referencing claim 16, as closely interpreted by the Examiner, Leeke teaches any scheduling conflicts between the playing of multimedia files is automatically resolved, (e.g. col. 11, lines 8 – 43).

37. Claims 14, 17 and 18 are rejected for similar reasons as stated above.

Claim Rejections - 35 USC § 103

38. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

39. Claims 12 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leeke (6587127) in view of Martino (5987103).

40. As per claim 12, Leeke does not specifically teach only a predetermined number of multimedia files may be stored in memory. Martino teaches only a predetermined number of multimedia files may be stored in memory, (e.g. col. 9, lines 39 – 67). It would be obvious to one skilled in the art at the time the invention was made to combine Martino with Leeke because it would be more efficient if there was a predetermined number of multimedia files stored because it could free up space to allocate of other files that may require more memory than other multimedia files.

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41. As per claim 19, Leeke teaches the listing is created and transmitted as disclosed above, but does not specifically teach the listing is created and transmitted automatically on a periodic basis. Martino teaches the listing is created and transmitted automatically on a periodic basis, (e.g. col. 10, lines 27 – 38). It would be obvious to one skilled in the art at the time the invention was made to combine Martino with Leeke because it would be more convenient for the system to automatically create and transmit the list so to save time and to automatically update any files that are old.

Conclusion

42. Applicant's arguments with respect to claims 1 – 19 have been considered but are moot in view of the new ground(s) of rejection.

43. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

44. a. White et al. U.S. Patent No. 6392664 discloses Method and system for presenting television programming and interactive entertainment.

45. b. White et al. U.S. Patent No. 6005563 discloses User interface for controlling audio functions in a web browser.

46. c. Burns et al. U.S. Patent No. 5991306 discloses Pull based, intelligent caching system and method for delivering data over a network.

47. d. Garofalakis et al. U.S. Patent No. 6665732 discloses Method and system for resource scheduling composite multimedia objects.

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48. e. Logan et al. U.S. Patent No. 6199076 discloses Audio program player including a dynamic program selection controller.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. England whose telephone number is 703-305-5333. The examiner can normally be reached on Mon-Thur, 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 703-308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David E. England
Examiner
Art Unit 2143

De



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